

Notice of Allowability

Application No.

10/636,142

Examiner

Lee Fineman

Applicant(s)

UE, YOSHIHIRO

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 5/9/05.
2. ☒ The allowed claim(s) is/are 7-15.
3. ☒ The drawings filed on 06 August 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/836,379.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

This Office Action is in response to an amendment filed 9 May 2005 in which claims 10, 12, 14 and 15 were amended. Claims 7-15 are pending.

Allowable Subject Matter

1. Claims 7-15 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Claims 7-9 are allowable over the prior art for at least the reasons set forth in the office action mailed 8 February 2005.

Claims 10-15 are allowable over the prior art for at least the reason that the prior art fails to teach and/or suggest a focus stabilizing apparatus with objective lens, stage, fixing base, minute movement table, drive mechanism/actuator, controller and "a displacement sensor provided between the stage and the objective lens for detecting a displacement amount produced between the objective lens and the stage due to a change in ambient temperature" as set forth in the claimed combination.

Okada, US 2001/0024320 A1, discloses a focus stabilizing apparatus (fig. 1) comprising an objective lens (8) and an observation sample (M); a fixing base (7 with 11, when vibration unit as shown in fig. 3 is between 7 and 8; see page 3, section [0052], lines 11-15); a sample base/stage (2) for supporting the observation sample (M) is placed; a minute movement table (12) on which the objective lens is fixed; a movement mechanism (14) situated between the

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fixing base and the minute movement table (fig. 3) to allow the minute movement table to be moved in an optical axis direction of the objective lens; a drive mechanism (13) provided between the fixing base and the minute movement table to minutely displace the minute movement table in the optical axis direction of the objective lens (fig. 4); a controller (16) for allowing the actuator/drive mechanism to perform an extending/contracting operation based on a detection output of the displacement sensor to control the objective lens and bring it to a just-in-focus position relative to the observation sample; and the fixing base is fixed to a revolver in the microscope (see page 3, section [0052], lines 11-15); and a displacement sensor (15) but not for detecting a displacement amount produced between the objective lens and the stage due to a change in ambient temperature as claimed.

Aziz et al., US 5,978,086 disclose in fig. 5 a focus stabilizing apparatus for correcting for shifts in focus due to thermal shifts but does not include a drive mechanism/actuator, controller and “a displacement sensor provided between the stage and the objective lens for detecting a displacement amount produced between the objective lens and the stage due to a change in ambient temperature” as set forth in the claimed combination.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LAF
July 15, 2005


MARK A. ROBINSON
PRIMARY EXAMINER